



Low Pay Commission Review 2010 Unite Evidence

Summary of the Main Recommendations

- **Adult Rate** - A rise above projected RPI inflation of 3.4% in 2011 that brings the adult rate to a minimum of £6.14 and as near to £6.90 as possible by October 2011.
- **Adult Rate to start at 20** - This Government should continue to address age discrimination in the workplace by starting to pay the Adult Rate at 20.
- **Development Rate, 16 – 17 Year Olds Rate and Apprentice Minimum Wage Rate** - These rates should increase by more than the Adult Rate in real terms, to help close the gap between them and the Adult Rate.
- **Compliance and Enforcement** - Unite recommends that the Government commits to making real term increases in current funding for monitoring and enforcement of the NMW.
- **Enforcement on Agencies who are Abusing the Fair Piece Rate to Underpay the NMW in the Hotel Industry** – Have the LPC received a report from the HMRC following the LPC recommendation to the HMRC to investigate whether contract and agency cleaners in the hotel sector are receiving their entitlement under the NMW for their hours worked?
- **NMW Fair Tips Campaign** – Unite recommends that the LPC should monitor closely how the new regulations on tips, gratuities, service

charges and cover charges are being implemented to ensure that employers are complying with the law.

- **Enforcement for Documented & Undocumented Migrant Workers** -
The LPC should focus on the issue of enforcement for documented and undocumented workers and call for a clarification in the law that employers may be prosecuted for not paying the NMW whether their workers have 'legal' contracts or not.

Introduction

This evidence is submitted by Unite the Union. Unite is the UK's largest trade union with 2 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, construction, transport and local government, food, agriculture, education, health and not for profit sectors.

Unite is pleased to submit evidence to the Low Pay Commission (LPC) on its further review of the National Minimum Wage (NMW). Unite considers the NMW to be one of the most important successes of the former Labour Government. Its introduction and subsequent increases have not had any adverse effects on the labour market, whilst it has benefited millions of low paid workers.

The last rise in the adult rate of 2.2% was welcome particularly following the previous 1.2% rise, which was the lowest since the NMW was introduced.¹ However the 2.2% increase has failed to keep pace with current inflation which was 4.8% in the year to July 2010². This difference has seen low paid workers fall further behind and has allowed inequality to rise in the past year instead of being reduced.

Unite would ultimately like the NMW rate to apply as a flat rate from age 16 upwards on a 'rate for the job basis and believes that the LPC needs to be bold in setting a NMW rate for 2011 that will have a significant impact on the working

¹ www.incomesdata.co.uk/pay-employment-data/national-minimum-wage-timeline.aspx

² www.statistics.gov.uk/pfdir/cpi0810.pdf

poor and start to tackle income inequality in this country at a time when it is needed more than ever.

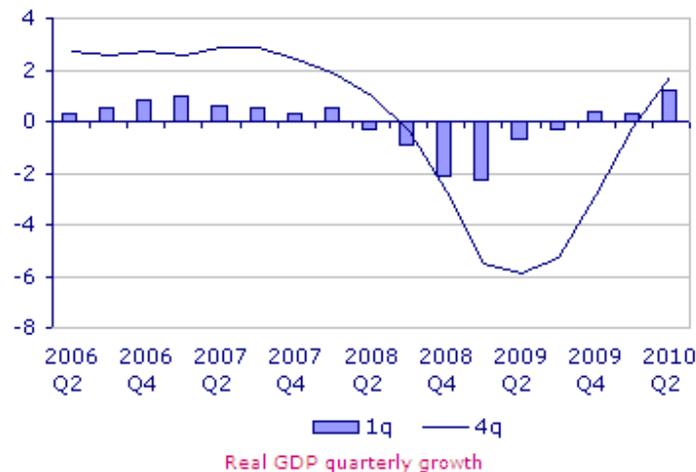
The Role of the Low Pay Commission

The LPC has been crucial in successfully co-ordinating the range of views that are shared by the different social partners and has made recommendations that have benefited millions of the most exploited workers. Unite would like to put on record its support for the work that has been done by the LPC and look forward to being a part of this productive process again.

The Economy

Gross Domestic Product (GDP)

After 6 negative quarters in a row, the UK has now reported growth in the last 3 quarters.³ GDP increased by 1.2% in the second quarter of 2010, compared with an increase of 0.3% in the previous quarter.



The Chancellor forecast in the June 2010 Budget that the economy would grow by 1.2% this year, 2.3% next year, 2.8% in 2012, 2.9% in 2013 and 2.7% in both 2014 and in 2015.⁴

Unite believes that now growth has returned and is forecast to remain it would be wrong to be overly cautious and risk hitting hardest the lowest paid.

³ www.statistics.gov.uk/CCI/nugget.asp?ID=192&Pos=1&ColRank=1&Rank=144

⁴ www.hm-treasury.gov.uk/d/junebudget_complete.pdf

Inflation

In the year to July 2010 the all items retail price index (RPI) rose by 4.8%.⁵ Many essentials have been rising at a far higher rate than RPI inflation, which can be seen below.⁶

Food Expenditure

- Fresh fruit up 10.9%
- Fresh fish up 10.0%
- Tea up 9.8%
- Butter up 7.1%
- Fresh vegetables up 6.5%
- Soft drinks up 6.4%
- Pork up 5.2%
- Cheese 5.1%
- Lamb 5.1%

Travel Expenditure

- Vehicle tax and insurance up 28.7%
- Petrol & oil up 14.4%
- Motoring expenditure up 12.2%
- Rail fares up 7.3%
- Other travel costs up 7.3%
- Purchase of motor vehicles up 5.1%

Housing Expenditure

- Telephones, telemessages, etc up 6.9%
- Furnishings up 5.9%

⁵ www.statistics.gov.uk/pdffdir/cpi0810.pdf

⁶ www.statistics.gov.uk/downloads/theme_economy/a-to-i-july-2010.pdf

- Dwelling insurance & ground rent up 5.3%
- Mortgage interest payments up 5.2%
- Furniture up 5.1%

The Treasury's independent forecasts for inflation suggest that RPI inflation will remain above CPI inflation and will be around 3.4% in 2011.⁷

	Independent average				
	2010	2011	2012	2013	2014
Inflation rate (per cent)					
- CPI	2.9	2.4	1.8	2.0	2.2
- RPI	4.2	3.4	2.7	3.0	3.2

One thing we can be sure of is that it's the lowest paid who are suffering more than anyone else and they need the LPC to set a NMW rate that will help them during these testing times.

Impact on Employment

Low Paying Sectors Employment

There has been previous concern about the NMW decreasing levels of employment within the UK's low paying sectors (Retail, Hospitality, Social Work, Cleaning, Textiles, Agriculture, Security and Hairdressing). However, since the introduction of the NMW this has not proven to be the case. In fact, employment in the lower paying sectors within the UK has increased by 518,000 or 8.2%.⁸

In the last year employment in the low paying sectors has decreased by 90,000 or by -1.3%, which has been predominantly caused by the jobs losses that have been suffered in the retail and hospitality sectors during the recession.

⁷ www.hm-treasury.gov.uk/d/201008forcomp.pdf

⁸ www.statistics.gov.uk/elmr/09_10/downloads/Table6_05.xls

Low Paying Sectors	March 1999	March 2009	March 2010	Change Since March 1999	Change Since March 2009
Retail	2,546,000	2,713,000	2,605,000	+59,000 / +2.3%	-108,000 / -4.0%
Hospitality	1,553,000	1,734,000	1,675,000	+122,000 / +7.9%	-59,000 / -3.4%
Social Work	1,129,000	1,403,000	1,447,000	+318,000 / +28.2%	+44,000 / +3.1%
Cleaning (Services to buildings)	525,000	560,000	579,000	+54,000 / +10.3%	+19,000 / +3.4%
Textiles	138,000	48,000	52,000	-86,000 / -62.3%	+4,000 / +8.3%
Agriculture	245,000	203,000	192,000	-53,000 / -21.6%	-11,000 / -5.4%
Security	128,000	175,000	191,000	+63,000 / +49.2%	+16,000 / +9.1%
Hairdressing	79,000	115,000	120,000	+41,000 / +51.9%	+5,000 / +4.3%
All low-pay sectors	6,343,000	6,951,000	6,861,000	+518,000 / +8.2%	-90,000 / -1.3%

Unite believes that the evidence continues to show that a NMW in the UK has had a positive affect in the last year on employment levels. The number of people in employment aged 16 and over increased by 184,000 on the quarter to reach 29.02 million. This is the largest quarterly increase in the number of people in employment since 1989. The quarterly increase in total employment was mainly driven by part-time workers, which increased by 115,000 on the quarter to reach 7.84 million, the highest figure since comparable records began in 1992.⁹

Many part time jobs pay around the NMW rates and last years and previous increases in the NMW would have been an attributing factor to the increase in part time employment levels.

Impact on Profitability

Employers are obviously concerned that the NMW reduces their levels of profit. With this said Unite believe that it is only right that when a company is making profits that this success should be shared with their employees. Especially at a time, when despite the recent difficulties being experienced UK corporations are making profits of £77.6 billion in Q1 2010.¹⁰

⁹ www.statistics.gov.uk/cci/nugget.asp?id=12

¹⁰ www.statistics.gov.uk/pdfdir/gna0610.pdf

Retail Sector

The Deloitte 2010 Global Powers of Retailing ranked 18 UK retailing companies within the top 250 companies in the world, of which Tesco's was the highest UK retailer in 4th place.¹¹ Tesco's made a staggering £3.176bn record profit before tax to the year end February 2010, which was 7.5% higher than the year before.¹² Tesco's has since reported an 8.2% rise in group sales, for the 13 weeks to 30th May 2010.¹³ So Unite would not accept that further significant NMW increases are beyond a company of Tesco's stature for instance.

Beyond the big companies it is difficult to assess what affect the NMW would have had on the profitability of smaller companies but we do know that within food retailing in the UK it is increasingly controlled by a small number of multinational corporations. In the UK we now buy 97.7% of our groceries in supermarkets and 75.4% from just four supermarket chains – Tesco (30.8%), Asda (16.9%), Sainsburys (16.1%) and Morrisons (11.6%).¹⁴

So it is obvious that within the food retail market in the UK there has been consolidation by the major supermarkets, which now dominate the market. It is this consolidation that is adversely affecting small retailers rather than additional costs associated with the NMW.

In order to try and ascertain a feel for profitability the top 50 companies in the retail sector in total number of employee's order are listed next.¹⁵ Out of the top 50 employers in the retail sector in the UK, 41 reported a profit and 35 improved their financial position in comparison to their previous financial year's figures. This clearly demonstrates the profitability of the top 50 employers within the retail sector in the UK and is even more impressive when we consider the financial year reported for most of the companies listed, includes at least a part of the recessionary period from Q2 2008 to Q3 2009.

¹¹ www.deloitte.com/assets/DcomGlobal/Local%20Assets/Documents/Consumer%20Business/dtt_globalpowersofretailing2010.pdf

¹² www.fame.bvdep.com/cgi/template.dll

¹³ www.tescopl.com/plc/ir/pres_results/results/r2011/q1/q1_ims10_1.pdf

¹⁴ Kantar Worldpanel

¹⁵ www.fame.bvdep.com/version-201068/cgi/template.dll

Company Name	Primary UK SIC (2003) Code	Last Year	Turnover th GBP Last avail. Yr.	Profit (Loss) before Tax th GBP Last avail. Yr.	Profit (Loss) before Tax th GBP Year - 1	Number of Employees Last avail. Yr.
TESCO PLC	5211	28/02/2010	56,910,000	3,176,000	2,954,000	372,338
TESCO STORES LIMITED	5211	28/02/2009	38,027,000	1,748,000	1,320,000	171,163
WM MORRISON SUPERMARKETS P L C	5211	31/01/2010	15,410,000	858,000	655,000	133,743
ASDA GROUP LIMITED	5227	31/12/2008	18,573,000	520,000	561,000	105,664
WAL-MART STORES (UK) LIMITED	5227	31/12/2008	18,608,000	360,000	237,000	105,664
ASDA STORES LIMITED	5212	31/12/2008	18,570,000	497,000	342,000	105,644
J SAINSBURY PLC	5211	31/03/2010	19,964,000	733,000	466,000	97,300
KINGFISHER PLC	5246	31/01/2010	10,503,000	566,000	90,000	80,000
MARKS AND SPENCER P.L.C.	5212	31/03/2010	9,536,600	702,700	706,200	76,267
JOHN LEWIS PLC	5212	31/01/2010	6,734,600	154,900	281,000	70,000
JOHN LEWIS PARTNERSHIP PLC	5212	31/01/2010	6,734,600	306,600	281,600	70,000
SAFEWAY LIMITED	5211	31/01/2010	8,585,000	505,000	355,000	65,820
SAFEWAY STORES LIMITED	5211	31/01/2009	8,118,200	352,800	324,700	62,494
MARKS AND SPENCER GROUP P.L.C.	5212	31/03/2010	9,536,600	702,700	706,200	52,994
BOOTS UK LIMITED	5231	31/03/2009	6,083,000	287,200	396,100	41,970
WAITROSE LIMITED	5211	31/01/2010	4,317,200	154,000	129,000	41,100
NEXT RETAIL LIMITED	5242	31/01/2010	3,204,066	359,795	247,990	39,283
DSG INTERNATIONAL PLC	5245	30/04/2009	8,364,600	-140,400	-192,800	38,874
SOMERFIELD STORES LIMITED	5211	30/04/2009	4,349,500	-144,000	-21,800	37,576
NEXT PLC	5242	31/01/2010	3,406,500	505,300	428,800	35,619
B & Q PLC	5244	31/01/2010	3,792,400	400,400	113,700	32,042
HOME RETAIL GROUP PLC	5244	28/02/2010	6,022,700	293,000	-394,200	27,888
DEBENHAMS PLC	5212	31/08/2009	1,915,600	120,800	105,900	27,766
KESA ELECTRICALS PLC	5245	30/04/2009	4,954,100	-81,800	127,900	27,360
WW REALISATION 1 LIMITED	5212	31/01/2008	1,711,696	-7,983	-28,082	27,267

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DEBENHAMS RETAIL PLC	5242	31/08/2009	1,853,200	210,000	225,400	25,941
WILKINSON HARDWARE STORES LIMITED	5246	31/01/2010	1,556,210	64,951	29,461	23,384
DSG RETAIL LIMITED	5245	30/04/2009	4,173,987	-86,879	140,141	22,157
PRIMARK STORES LIMITED	5242	30/09/2009	1,743,006	51,286	28,687	21,827
ICELAND FOODS GROUP LIMITED	5211	31/03/2010	2,264,860	110,125	86,864	21,464
ARCADIA GROUP BRANDS LIMITED	5242	31/08/2009	1,510,895	239,171	199,255	21,391
ICELAND FOODS LIMITED	5211	31/03/2010	2,202,513	150,480	137,624	20,883
NEW LOOK RETAIL GROUP LIMITED	5242	31/03/2009	1,322,600	2,600	-1,800	20,431
HOMEBASE LIMITED	5246	28/02/2009	1,420,013	-302,371	32,549	18,346
WH SMITH PLC	5247	31/08/2009	1,340,000	82,000	76,000	17,459
WH SMITH RETAIL HOLDINGS LIMITED	5247	31/08/2009	188,787	45,578	-2,971	17,435
NEW LOOK RETAILERS LIMITED	5242	31/03/2009	1,104,582	180,623	144,605	17,363
MATALAN RETAIL LTD.	5242	28/02/2010	1,104,100	103,200	53,800	16,627
LLOYDS PHARMACY LIMITED	5231	31/12/2008	1,664,452	76,830	131,887	16,540
BHS LIMITED	5212	31/08/2009	1,121,045	-62,109	21,478	14,481
BRITISH GAS SERVICES LIMITED	5274	31/12/2008	1,328,776	133,005	119,338	14,196
HMV GROUP PLC	5248	30/04/2010	2,016,600	68,900	61,300	14,154
TJX EUROPE LIMITED	5242	31/01/2009	1,226,388	69,072	47,096	14,019
TJX UK	5242	31/01/2009	1,122,197	48,878	36,405	13,277
MARTIN MCCOLL RETAIL GROUP LIMITED	5247	30/11/2009	784,926	21,553	6,121	12,005
C. & J. CLARK INTERNATIONAL LIMITED	5243	31/01/2009	736,300	76,000	57,500	11,389
THE GAME GROUP PLC	5248	31/01/2010	1,772,358	84,211	119,613	10,592
SPORTS DIRECT INTERNATIONAL PLC	5242	30/04/2009	1,367,321	10,656	118,873	10,400
COMET GROUP P L C	5245	30/04/2009	1,594,240	-7,837	24,928	9,946
ALLDAYS PLC	5227	31/10/2001	524,882	-7,323	-64,006	9,630

Hospitality Sector

According to the latest HotStats Hotel Confidence Monitor by TRI Hospitality Consulting UK hotel general managers continue to remain confident. Looking towards the next three months, 72% of respondents are either optimistic or very optimistic about their hotel's trading performance.

“There may well be a negative impact of public sector cutbacks on hotel industry demand but let's not overstate this, clearly confidence levels and performance expectations remain decidedly positive.” said Mark Dickens, managing director, HotStats.

The latest HotStats Hotel Confidence Monitor shows that 57% of respondents predict growth in average room rate during Q3, up 16% since Q1 2010. As a result room yield (RevPAR) expectations have risen dramatically, with 70% of respondents predicting growth during the current quarter compared to Q3 2009.

Regarding this quarter's sales and marketing expenditure, approximately 88% of respondents intend to increase or maintain their Q3 budget in comparison to 2009. Of the general managers who completed the HotStats Hotel Confidence Monitor survey, 78% expect to maintain staffing levels during Q3 2010 as compared to the previous year.

As a result of the positive performance outlook, 86% of respondents are either expecting to maintain or increase their gross operating profit (IBFC) during the current quarter.

As for the restaurant part of the hospitality sector the UK eating-out market is starting to see the green shoots of recovery. The value of eating out is expected

to be £40.5bn in 2010, a rise of 1% from last year according to Allegra's Strategies report 'Eating Out in the UK, 2010'.¹⁶

Eating Out in the UK 2010 predicted that growth would continue over the next five years, with the market hitting £49bn in 2015. However, it warned that the market would be affected in 2011 by the outcome of the emergency budget and the rise in VAT to 20%.

In order to try and ascertain a feel for profitability the top 50 companies in the hospitality sector in total number of employee's order are listed next.¹⁷ Out of the top 50 employers in the hospitality sector in the UK, 30 reported a profit and 23 improved their financial position in comparison to their previous financial year's figures. Although this is not as impressive as the retail sectors performance it is clear that the majority of the top 50 hospitality employers in the UK are profitable. Again this is even more impressive when we consider the financial year reported for most of the companies listed includes at least a part of the recessionary period from Q2 2008 to Q3 2009.

¹⁶www.caterersearch.com/Articles/2010/07/29/334423/eating-out-report-warns-of-long-term-effect-of-recession.htm

¹⁷www.fame.bvdep.com/version-201068/cgi/template.dll

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COMPASS GROUP PLC	5552	30/09/2009	13,444,000	773,000	566,000	386,170
COMPASS CONTRACT SERVICES (U.K.) LIMITED	5552	30/09/2009	1,690,922	64,292	38,835	58,901
MITCHELLS & BUTLERS PLC	5540	30/09/2009	1,958,000	-10,000	-238,000	42,023
MCDONALD'S RESTAURANTS LIMITED	5530	31/12/2008	1,075,535	77,743	39,973	37,197
MITCHELLS & BUTLERS RETAIL LIMITED	5540	30/09/2009	1,632,000	1,000	-32,000	34,286
SSP GROUP LIMITED	5552	30/09/2009	1,538,700	-682,100	-138,900	30,049
WHITBREAD PLC	5510	28/02/2010	1,435,000	208,000	198,600	25,794
GREENE KING PLC	5540	30/04/2010	984,100	101,900	54,300	18,480
PUNCH TAVERNS PLC	5540	31/08/2009	1,441,000	-405,700	-80,200	18,457
PIZZA HUT (U.K.) LIMITED	5530	30/11/2008	358,626	-13,306	-6,366	18,051
ARAMARK LIMITED	5552	30/09/2009	410,069	9,242	8,661	12,836
J.D WETHERSPOON PLC	5540	31/07/2009	955,119	45,029	54,159	11,552
MILLENNIUM & COPTHORNE HOTELS PLC	5510	31/12/2009	654,000	81,900	102,800	11,131
AHG VENICE LIMITED	5510	31/12/2008	475,000	-150,507	-173,837	10,820
BRENT WALKER GROUP PLC(THE)	5510	31/12/1996	1,733,700	50,600	-414,500	10,594
BOURNE LEISURE HOLDINGS LIMITED	5522	31/12/2008	744,734	55,835	63,767	10,278
THE RESTAURANT GROUP PLC	5530	31/12/2009	435,743	48,334	47,131	10,070
GREENE KING RETAILING LIMITED	5540	30/04/2009	524,700	-16,600	13,900	9,858
STARBUCKS COFFEE COMPANY (UK) LIMITED	5530	30/09/2009	388,267	-52,221	-26,344	9,623
ELIOR UK LIMITED	5552	30/09/2009	256,281	-1,744	-2,749	8,876
MARRIOTT HOTELS LIMITED	5510	31/12/2008	149,482	652	658	8,465
PIZZAEXPRESS (RESTAURANTS) LIMITED	5530	30/06/2009	294,882	59,071	59,608	8,392
INTERCONTINENTAL HOTELS GROUP PLC	5510	31/12/2009	952,000	-40,000	208,000	7,556
AVENANCE PLC	5552	30/09/2009	207,698	2,184	1,960	7,281
CITY CENTRE RESTAURANTS (UK) LIMITED	5530	31/12/2008	309,654	36,886	36,761	6,802

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LRG HOLDINGS LIMITED	5510	31/12/2008	356,929	-60,322	-948	5,696
NANDO'S CHICKENLAND LIMITED	5530	28/02/2009	230,857	7,818	11,849	5,544
MITCHELLS & BUTLERS RETAIL (NO 2) LIMITED	5540	30/09/2009	277,093	6,384	823	5,401
KENTUCKY FRIED CHICKEN (GREAT BRITAIN) LIMITED	5530	30/11/2008	316,719	27,854	24,191	5,253
OP REALISATIONS (OPOL) LIMITED	5540	31/12/2007	130,454	25,893	3,335	4,917
BAXTERSTOREY LIMITED	5552	31/12/2009	216,040	13,393	12,493	4,698
ASK RESTAURANTS LIMITED	5530	30/06/2009	179,910	17,906	24,516	4,549
BARRACUDA GROUP LIMITED	5540	30/09/2008	161,015	-190,702	-14,762	4,310
MACDONALD HOTELS LIMITED	5510	30/09/2008	135,424	-9,399	99,092	4,149
DE VERE HOTELS & LEISURE LIMITED	5510	31/12/2008	159,321	-10,921	486,751	4,119
ACCOR UK BUSINESS & LEISURE HOTELS LIMITED	5510	31/12/2009	189,064	43,458	37,528	4,041
LAUREL PUB EQUITY HOLDINGS LIMITED	5530	31/08/2008	327,415	-11,816	-27,116	4,031
INITIAL CATERING SERVICES LIMITED	5552	31/12/2009	65,992	2,741	2,213	3,887
SUN HOTELS INTERNATIONAL	5510	30/06/1992	56,905	15,908	395,000	3,885
WELCOME BREAK HOLDINGS LIMITED	5530	31/01/2009	607,737	1,913	-1,536	3,819
KAYTERM LIMITED	5510	31/03/2008	130,084	-1,116	7,824	3,653
HOLIDAYBREAK PLC	5522	30/09/2009	473,400	5,400	23,400	3,569
BARRACUDA 2009 LIMITED	5540	30/09/2009	33,094	-336	n.a.	3,515
JARVIS HOTELS LTD.	5510	31/03/2009	129,585	-4,120	4,503	3,446
LRG HOTELS LIMITED	5510	31/12/2008	196,529	32,357	47,021	3,443
BUTLINS SKYLINE LIMITED	5522	31/12/2008	165,306	9,126	10,515	3,383
QMH LIMITED	5510	31/12/2009	250,700	-13,000	-3,000	3,320
ADELIE FOOD HOLDINGS LIMITED	5552	30/09/2009	235,718	-17,798	-13,415	3,248
ENDELL GROUP HOLDINGS LIMITED	5510	31/12/2009	297,300	-101,700	-78,100	3,230
TRAVELODGE HOTELS LIMITED	5510	31/12/2009	294,400	66,500	8,700	3,179

Closing the Gender, Ethnic Minorities & Workers with Disabilities Pay Gap

Unite are pleased that the LPC has been asked to report on the effect that the NMW has had on gender, ethnic minorities and workers with disabilities.

Gender

Every increase in the NMW has had a significant impact on women's pay. Back in March 2010 Pat McFadden MP announced that the latest recent increase in the NMW would benefit around one million workers¹⁸, of which two thirds are believed to benefit women.

The NMW has become a vital tool in trying to reduce the gender pay gap due to the high concentration of women in low paid jobs and particularly those women in part time jobs. Over the lifetime of the NMW the gender pay gap has been reduced from 20.5% in 1999 to 16.4% in 2009, this cannot all be attributed to the NMW but there is no doubt that the NMW has been a positive influence in helping to close the gender pay gap.¹⁹

Year	Hourly earnings excluding overtime				Pay gap	
	Men		Women		Women/Men	
	Median	Mean	Median	Mean	Median	Mean
1999	9.07	11.10	7.58	8.83	16.4	20.5
2000	9.35	11.53	7.83	9.20	16.3	20.2
2001	9.84	12.24	8.23	9.79	16.4	20.0
2002	10.26	12.92	8.67	10.32	15.5	20.1
2003	10.58	13.28	9.04	10.70	14.6	19.4
2004*	11.09	13.76	9.53	11.27	14.1	18.1
2004	10.96	13.52	9.37	11.12	14.5	17.7
2005	11.29	14.05	9.82	11.65	13.0	17.1

¹⁸ www.hrmguide.co.uk/rewards/minimum_wage.htm

¹⁹ www.statistics.gov.uk/pdfdir/ashe1108.pdf & www.statistics.gov.uk/pdfdir/ashe1109.pdf

2006	11.71	14.64	10.23	12.10	12.6	17.4
2006**	11.64	14.58	10.14	12.02	12.8	17.5
2007	11.97	14.95	10.48	12.42	12.5	17.0
2008	12.50	15.63	10.92	12.92	12.6	17.3
2009	12.97	16.07	11.39	13.43	12.2	16.4

* Results for 2004 and earlier exclude supplementary surveys

** In 2006 there were a number of methodological improvements made to the survey design.

Source: ONS

Despite the significant potential impact of the NMW on the gender pay gap, the reality is that we are years away from a position of parity between the genders.

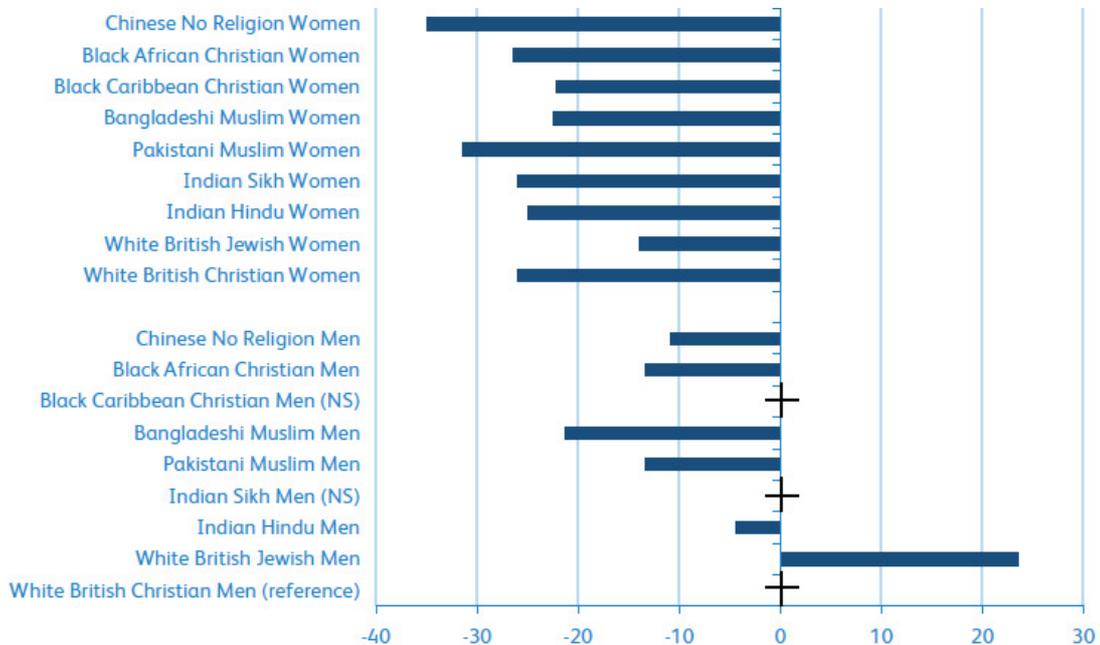
Therefore Unite believes that a significant rise in the NMW above projected RPI inflation and average earnings will have a beneficial impact in addressing the gender pay gap.

Ethnic Minorities

According to research by the National Equality Panel²⁰ Pakistani and Bangladeshi Muslim men have hourly pay 13-21% less than White British Christian men with the same qualifications, age and occupation. Women from nearly all ethno-religious groups are paid less than the least well-paid group of men.

²⁰ www.equalities.gov.uk/pdf/NEP%20Summary.pdf

Hourly pay differences by ethno-religious group, UK (% differences from White British Christian men predicted for those with matching qualifications and other characteristics)



Source: Longhi and Platt (2008), figure 4.1.

The end result of all this is that some minority ethnic groups still have equivalent net incomes that are well below those of the rest of the population. Those from Bangladeshi and Pakistani households have a median equivalent net income of only £238 per week, compared to the national median of £393. Nearly half are below the official poverty line.

So clearly with a high proportion of ethnic minority workers in the low paying sectors of the economy the NMW has a key role to play in tackling social exclusion.

Therefore Unite believes that a rise above projected RPI inflation and average earnings would help in starting to close the ethnic pay gap once more.

Workers with Disabilities

Disabled employees experience a significant pay gap when compared to non disabled employees according to the Equality Human Rights Commission ‘Pay Gaps Across Equalities Areas’ research.²¹ In addition, disabled women suffer from a gender pay gap, and earn less than disabled men. Estimates of the disabled hourly pay gap vary from 6 to 26% (this variation is due to the use of different data sources and definitions of disability). Recent research has found that when compared to non disabled men, disabled men have a pay gap of 11%, and disabled women 22%.

So a significant increase above the projected rise in RPI inflation and average earnings is desperately needed, in the NMW if workers with disabilities are going to get nearer to the pay of their non-disabled working colleagues.

Setting a Bold Target for the Adult Rate

Recent studies on minimum pay levels including from the Mayor of London’s office with the ‘London Living Wage’ and from the Joseph Rowntree Foundation have added evidence to the need for bolder minimum wage rates to be set.

The ‘London Living Wage’, is an independently calculated (GLA Economics) minimum income that determines an **“adequate level of warmth and shelter, a healthy palatable diet, social integration and avoidance of chronic stress for earners and their dependents.”** This equates to £7.85 per hour, which will be £1.92 per hour or 32.4% above the NMW rate for adults of £5.93 as of the 1st of October 2010.²²

London mayor Boris Johnson has insisted that employers in the capital would not be putting jobs or the economy at risk by increasing low earners salaries. Johnson said: **“Paying the London Living Wage is not only morally right, but makes good business sense too. What may appear to a company to be an**

²¹ www.equalityhumanrights.com/uploaded_files/pay_gaps_accross_equalities_areas.pdf

²² www.london.gov.uk/sites/default/files/living-wage-2010_0.pdf

unaffordable cost in a highly competitive market is more appropriately viewed as a sound investment decision. I believe that paying decent wages reduces staff turnover and produces a more motivated and productive workforce. As in previous years, this report takes a systematic approach to identifying what is a Living Wage in London. It shows how someone paid less than about £6.80 an hour will be living in poverty, even after benefits and tax credits are taken into account. This means that in London you need an hourly wage rate of 17 per cent above the National Minimum Wage (NMW) rate of £5.80 just to take you above the poverty level. However, this provides no margin to meet the kind of day-to-day challenges which those of us who are better off can afford to take in our stride. As before, a margin of 15 per cent has therefore been added to the poverty threshold wage. The result is a London Living Wage of £7.85 per hour - an increase of 3.3 per cent on last year's figure and a 17 per cent increase in the five years since its introduction (at £6.70).²³

A report from the influential Joseph Rowntree Foundation offers one of the most meaningful reports on poverty and income for some time. "A minimum income standard for the UK in 2010", discovered that according to members of the public, a single person in the UK today needs to earn £7.38 an hour and a couple with 2 children £7.60 an hour each to afford a basic but acceptable standard of living.²⁴ £7.60 per hour, is £1.67 per hour or 28.2% above the £5.93 NMW as of the 1st of October 2010.

Half median earnings is a figure that has been commonly used for years to calculate low pay thresholds, this is also Unites policy for the NMW. The last ONS figures showed that full time male median earnings were £12.97 an hour as at April 2009.²⁵ After uprating average earnings by 0.9%²⁶ and then projecting forward in line with Treasury's independent forecasts for earnings growth of

²³ www.london.gov.uk/sites/default/files/living-wage-2010_0.pdf

²⁴ www.jrf.org.uk/sites/files/jrf/MIS-2010-report_0.pdf

²⁵ www.statistics.gov.uk/pdffdir/ashe1109.pdf

²⁶ Uprated by Average Earnings Index (AEI) from April 2009 – 451 to April 2010 – 455 by 0.9%.

2.5%²⁷ for 2010 half male median earnings will be around £6.71 in 2010 and with earnings growth of 2.8%²⁸ expected in 2011, half male median earnings will be around £6.90 in 2011.

To this end Unite asks the LPC recommends a rise above projected RPI inflation of 3.4% in 2011 that brings the adult rate to a minimum of £6.14 and as near to £6.90 as possible by October 2011.

Adult Rate to start at 20 & Development Rate, 16 – 17 Year Olds Rate and Apprentice Minimum Wage Rate

Adult Rate to start at 20 & Development Rate

Unite is pleased to see the Government has accepted the LPC recommendation to reduce the age at which the NMW adult rate is paid to 21. However the Government still retains the age bands within the National Minimum Wage, paying those under 21 as of the 1st of October 2010 less than those over 21. 18-20 year olds will still be paid a 'development rate'. The Employer's Forum on Age believes that this will be successfully challenged as it constitutes direct age discrimination.²⁹ While the youth rate (16-17 year olds) might be objectively justified as there are statutory restrictions on the work they can undertake, this is not the case for the 18-20 age group.

Previous research by the Employer's Forum on Age (EFA)³⁰ has attempted to address some of the common objections and showed that equalising the development NMW rate with the adult NMW rate would not have detrimental affects. Some of the EFA's members including Mark's and Spencer's and B&Q removed their age bands a number of years ago.

²⁷ www.hm-treasury.gov.uk/d/201008forcomp.pdf

²⁸ www.hm-treasury.gov.uk/d/201008forcomp.pdf

²⁹ www.efa.org.uk/latest/campaigns.asp

³⁰ Employers Forum on Age – 'Equalising the NMW.' Page 1-4, 2008.

Unite believes that a removal of the development rate would have minimal negative impacts on employment for 18 to 20 year olds and that any positive impacts would more than offset any negative impacts.

Unite would ultimately like the NMW to apply as a flat rate from age 16 upwards on a 'rate for the job basis.' Unite believe that the principle of equal remuneration for work of equal value is an important one. However until that day this Government should continue to address age discrimination in the workplace by starting to pay the adult rate at 20.

16 - 17 Year Old Rate

Where Unite is organised, part of our bargaining strategy is for the abolition of youth rates where they apply. In those areas where Unite has abolished youth rates by negotiation there is no evidence that this has led to a decrease in young people employed. This is largely because many companies are prepared to abolish youth rates in recognition that doing so aids recruitment, retention, motivation and productivity.

During the recession young peoples employment prospects have suffered but this is no different to the affect that was felt by young people in the recessions of the early 1980's and 1990's. Therefore Unite does not believe that further rises in the 16-17 year old rate would leave more young people excluded from education, training or employment.

Unite believes that the UK should move towards a position where workers are not discriminated against on the basis of age, but are paid the rate for the job.

Apprentice Minimum Wage Rate

Unite is pleased to see the exemption that stops apprentices from receiving the NMW has been removed. This will bring apprentices under the scope of NMW legislation, which will hopefully go some way to stopping the exploitation that has

seen some apprentices being paid as little as £1.54 an hour.³¹ It was clear that some employers were using the exemption as a loophole to pay low wages, which impacts adversely on take up and completions and at the same time was reinforcing the gender pay gap, with low pay particularly affecting female apprentices.

However Unite is disappointed at the £2.50 per hour starting rate that the Apprentice Minimum Wage was set at. Unite believes that apprentices should be paid at least the National Minimum Wage for their work as this is the national baseline wage for all workers in the UK regardless of their skill level, age or legal status, below which no worker should fall.

Therefore Unite believes that the Development Rate, 16 – 17 Year Olds Rate and Apprentice Minimum Wage Rate should increase by more than the Adult Rate in real terms, to help close the gap between them and the Adult Rate.

Compliance and Enforcement

Unite would firstly like to congratulate HM Revenue & Customs (HMRC) enforcement team. Since the NMW introduction in 1999 more than £38 million in NMW arrears for over 130,000 workers has been identified. In the financial year 2008/09 nearly £4.5m of arrears for over 23,000 workers – over £580,000 more than the previous year was identified.³²

Unite believe that this success clearly warrants increased funding for NMW enforcement. Especially when you consider that in the coming year between 125,000 - 150,000 apprentices and now 100,000 plus agricultural workers, due to

³¹ www.tuc.org.uk/extras/apprenticepay.pdf

³² www.bis.gov.uk/assets/biscore/employment-matters/docs/10-678-nmw-compliance-strategy

the abolition of the Agricultural Wages Board are being brought under the scope of NMW legislation.

Therefore Unite recommends that the Government commits to making real term increases in current funding for monitoring and enforcement of the NMW.

Enforcement on Agencies who are Abusing the Fair Piece Rate to Underpay the NMW in the Hotel Industry

Following Unites submission to the LPC last year where Unite highlighted examples of agencies who are abusing the fair piece rate by underpaying the NMW in the hotel industry. Unite unfortunately has to report that the situation has not improved in the past year, based on our experiences.

Clearly the hotel industry has been trying to avoid their financial responsibility by employing agencies and contract cleaning companies for room cleaning services, which were previously directly employed. The hotel industry must not simply be allowed to transfer the blame to agencies and contract cleaning companies.

Many of the piece rates for cleaning rooms in the hotel industry have been set at unattainable levels, which make it impossible for workers to achieve the NMW. One way to stop this would be to remove the fair piece rate option from the hotel sector because it can be argued that hotel room cleaning, work does not constitute “output work” under NMW regulation 5 (1999).

Unite would like to thank the LPC for recommending to HMRC to investigate whether contract and agency cleaners in the hotel sector are receiving their entitlement under the NMW for their hours worked. Which leads to the question of have the LPC received a report from HMRC following this recommendation?

NMW Fair Tips Campaign

The long running campaign by Unite the Union, Consumer Focus and the Daily Mirror helped secure justice for workers in the hospitality industry in their fight for fair tips. Unite is pleased to see that waiters and waitresses across the country have won the battle for pay fairness with tips, gratuities, service charges and cover charges no longer being allowed to be used to pay workers the NMW.

However are employers abiding by the law? Or are some employers still using the tips left for workers to subsidise the low wages.

Therefore Unite recommends that the LPC should monitor closely how the new regulations on tips, gratuities, service charges and cover charges are being implemented to ensure that employers are complying with the law.

Enforcement for Documented and Undocumented Migrant Workers

The most vulnerable workers in our economy are undocumented migrant workers, many of whom are being paid below the NMW. Unite does not believe that any worker should be exempt from basic employment rights. Unite believes that employers should face penalties for paying below the NMW whether their workers are documented or not. Unites experience is of employers capitalising on the fear and insecurity of these workers and often only becoming interested in their status if a worker complains.

According to research commissioned by the TUC Commission on Vulnerable Employment, Female migrant workers are the most likely group to be paid less than the NMW.³³ The study revealed that 35,000 migrant women are denied the

³³ www.hrzone.co.uk/cgi-bin/item.cgi?id=187232&d=1064&h=387&f=388&dateformat=%0%20%B%20%Y

NMW. Overall women are one and a half times more likely than male migrant workers to be paid less than the NMW.

The maintenance of the NMW is dependent on all workers irrespective of their employment status, to be paid no less than the NMW level. The current position encourages employers to recruit migrant workers (documented or otherwise) precisely because they are able to get away with paying significantly less than the NMW. This has had a downward (deflationary) pressure on the wages of indigenous workers at the lower end of earnings in the economy. This is clearly an unintended gap in the enforcement of the NMW and employment rights per se.

It is unacceptable that an employer who commercially benefits from paying low wages to an undocumented worker on the basis of illegality of contract, can escape subsequent penalties, based on the same illegal contract to which they were (as employers) party. Clearly undocumented workers will not make a complaint if they believe that the involvement of the authorities may lead to their detention and deportation, so enforcement in this case cannot rely on individual complaints by workers.

In practice, this means that each case is being treated separately and each individual is being required to prove they are covered by the NMW, before their particular circumstances can be looked at, which is time consuming and creating additional barriers to these workers receiving the NMW they are entitled to. As a minimum Unite would like to see a situation whereby a trade union can make a representative action on behalf of a group of workers to an employment tribunal and that in such instances HMRC enforcement officers should have access to such workers if they are detained.

Unite recommends the LPC focus on the issue of enforcement for documented migrant workers and undocumented migrant workers and calls for a clarification in the law that employers may be prosecuted for not paying the NMW whether their workers have legal contracts or not.

Roger Jeary

10th September 2010

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